

Abstract ó Legal responsibilty

Pavel Praflák

The purpose of my thesis is to analyze the institute of legal responsibility that is very often used in the Czech doctrine and in legal acts. The reason for my research is to clarify the clear content of this term.

The thesis is composed of two parts, each of them using a different method. Part One is deductive. It is divided into eight chapters. Chapter One is introductory and defines the term „responsibility“ according to the common Czech language and clears the terminology used in the thesis.

Chapter Two examines mechanisms of Roman law similar to the contemporary legal responsibility. It deals primarily with the institutes of „nexum“ and „stipulatio“.

Chapter Three concentrates on the function and role of legal responsibility in law. It defines its most universal function as well as its concrete roles.

Chapter Four is subdivided into four subchapters and provides an outline of relevant Czech doctrinal concepts of legal responsibility, such as the concept of active responsibility or the sanction doctrine. It also deals with the classification of the concepts provided by Josef Macur in the 80s.

Chapter Five describes the German doctrine in the field of legal responsibility. It clears the German terminology, deals with the doctrine of „Schuld und Haftung“ and compares it with Roman and Czech law. The subchapter also clears the basic principles of German tort law.

Chapter Six analyses the draft of new Czech civil code and describes the concept of legal responsibility declared by the authors.

Chapter Seven addresses the issue of Principles of the European Tort Law (PETL) and investigates the common European concept of legal responsibility.

Chapter Eight concentrates on problems resulting from the new trends of legal responsibility mentioned above and recommends changes to be made in the classification of the concepts.

The main aim of the first part of the thesis is to analyze the theoretical concepts of legal responsibility and prove them considering the most recent development in the field of tort law in the Czech Republic and in Europe. I suggest that the current prevailing concept should be adjusted. In addition to the new systematics of the concepts of legal responsibility I

suggest to create the „reparation“ concept of legal responsibility based on the criterion of damages.

Part two uses an inductive method. It investigates the term „responsibility“ used in legal acts. It is divided into three chapters. Chapter One analyses the usage of the term „responsibility“ in the Czech law. It is subdivided into seven subchapters each of them dealing with a different meaning of the term.

Chapter Two describes the meanings of „responsibility“ in the draft of new Czech civil code and chapter Three focuses on the Principles of the European Tort Law (PETL).

The final chapter of the thesis contains conclusions of the both parts and suggestions for the future legislative acts that would avoid the problems by interpretation.